

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

JACK JERVIS,

Plaintiff

v.

DR. MICHAEL MITCHEFF,

Defendant

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CAUSE NO. 3:05-CV-602 RM

OPINION AND ORDER

Jack Jervis, a *pro se* prisoner, seeks leave to proceed *in forma pauperis* on appeal. Pursuant to 28 U.S.C. § 1915(a)(3), “An appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith.” Substantively, this appeal is not taken in good faith for the reasons stated in this court’s order dated November 16, 2006 (docket #28). Mr. Jervis may still proceed with this appeal, but to do so he must pay the full \$455.00 filing fee in advance.

Mr. Jervis also has filed a motion for a certificate of appealability. Because this is a civil rights case, the certificate of appealability is inapplicable and will be denied as moot.

For the foregoing reasons, the court:

(1) DENIES the motion for leave to proceed on appeal *in forma pauperis* (docket #34);

(2) GRANTS Jack Jervis to and including December 21, 2006, within which to pay the \$455.00 filing fee;

(3) CAUTIONS Jack Jervis, that if he does not pay this filing fee by that date, this appeal may be dismissed without further notice; and

(4) DENIES AS MOOT the motion for a certificate of appealability (docket #33).

SO ORDERED.

Dated this 7 Day of December, 2006.

/s/ Robert L. Miller, Jr.
Chief Judge
United States District Court